

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-884

June 1, 2000

BANGOR HYDRO-ELECTRIC COMPANY
Request for Approval of Special Rate
Contract with Walpole Woodworkers, Inc.

ORDER APPROVING
CONTRACT

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY OF DECISION

By this Order, the Commission approves Bangor Hydro-Electric Company's (BHE or the Company) proposed customer service agreement (CSA) with Walpole Woodworkers, Inc. (Walpole).

PROCEDURAL HISTORY

On December 9, 1999, BHE filed with this Commission a proposed CSA with Walpole. At the time it was filed, the agreement had not yet been executed and was contingent upon the Town of Chester receiving a Community Block grant from the Maine Department of Economic and Community Development.¹ Following discussions with the Commission Staff, BHE indicated that it intended to modify the contract and re-file it in the future. Therefore, on January 10, 2000, the filing was suspended.

On April 21, 2000, the Company filed a modified version of the contract, still unexecuted, and requested approval "immediately or, in the alternative, thirty days from receipt of this filing." In that there was not adequate time to review and approve the contract within the requested 30 days, the revised contract was suspended on May 19, 2000.

DISCUSSION AND DECISION

In its April 21, 2000 filing, the Company requested approval of the contract pursuant to its Alternative Marketing Plan (AMP), approved by the Commission's February 14, 1995 Order in Docket No. 94-125 (AMP Order). Under the AMP, contracts meeting certain criteria automatically go into effect 30 days after being filed with the Commission. The criteria for the instant contract require the Company to demonstrate that the revenue from the contract is expected to be equal to, or greater than, the Company's marginal cost plus 10% and that the contract passes the revenue and the total resource cost tests, as defined in the AMP Order.²

¹ The Town of Chester has since received the Community Block Grant.

² The AMP Order defines the revenue test as a comparison of the "present value of utility net revenues (revenues minus costs) with and without a discount program" and

We have reviewed the Company's filing and find that the revenue from the contract is expected to exceed the Company's marginal cost by at least 10%. In the cover letter of its April 21, 2000 filing, the Company asserted that the total resource cost test is not required because 1) although the Company is already over the 285 MW peak threshold level for this test, this particular contract did not cause it to be over that limit and 2) the test is made irrelevant by restructuring. While we do not agree with the Company that it is not required to file the total resource cost test analysis (in order to obtain 30-day automatic approval), we agree that the test may be less relevant for a T&D-only utility than it was for a vertically integrated utility. We previously required the total resource cost test to ascertain whether it would be more efficient for the utility to serve the customer pursuant to the contract or for the customer to pursue its alternative. The primary utility resource costs at issue were generation related. Under a restructured, market-driven system, these generation-related resource costs ought to be captured in the market price, thereby allowing each customer to select the alternative that minimizes total resources from their own, individual perspective. Moreover, under a competitive market place, we no longer have access to the generation-related resource costs to serve the customer. Therefore, not only is the total resource cost test less necessary in a restructured environment, we would not likely have the information necessary to perform it. For these reasons, we will not require the Company to file a total resource cost test analysis for this contract.

The Company did not discuss the omission of the revenue test. However, in the material submitted with its December 9, 1999 filing and its April 21, 2000 filing, the Company provided qualitative explanations for why a discount is necessary to retain this customer. Based on a review of that information, it appears likely that some discount is necessary to obtain the expected incremental load and, potentially, even to retain the existing load. Because of this, and because this approval does not foreclose future review of the ratemaking associated with this contract, we will allow the contract to go into effect without requiring the Company to file an economic analysis to demonstrate compliance with the revenue test.

Finally, the contract filed with the Commission for approval was an unexecuted version. Our approval of the Company entering this agreement is conditioned on the final, executed contract being identical to the version filed by the Company on April 21, 2000, modified only by inclusion of the signatures and execution dates. We also require the Company to file with this Commission a copy of the executed version upon its completion.

Accordingly, we

O R D E R

defines the total resource cost test as "a measure of the overall economic efficiency of an option, looking at costs and benefits to the participant, the utility, and other ratepayers." AMP Order at 12.

That an Agreement identical to the Customer Service Agreement between Bangor Hydro-Electric Company and Walpole Woodworkers, Inc., filed by Bangor Hydro-Electric Company on April 21, 2000, is hereby approved and may become effective upon execution.

Dated at Augusta, Maine, this 1st day of June, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.